

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 786 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAJPUT SATISHBHAI BHUPATBHAI

Versus

STATE OF GUJARAT

Appearance:

MS SUBHADRA G PATEL for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner challenges the order of preventive detention dated 17th November, 1998, made by the District Magistrate, Bhavnagar, under the powers conferred upon him under sub-section (2) of section 3 of the Gujarat

Prevention of Anti Social Activities Act, 1985
(hereinafter referred to as 'the Act').

It is alleged that the petitioner is a 'dangerous person' within the meaning of section 2 (c) of the Act, and his activities are prejudicial to the maintenance of public order. Three offences punishable under Chapters-XVII & XVI of the IPC are registered against the petitioner and are pending trial. Three persons have given statements in respect of the nefarious activities of the petitioner and its adverse effect on public tranquility and even tempo of life.

The Detaining Authority has recorded his subjective satisfaction in respect of the genuineness of the statements given by the witnesses and the apprehension voiced by them. It is stated that the witnesses were summoned before the Detaining Authority and the genuineness of the statements was verified by the Detaining Authority himself and the Detaining Authority having applied his mind to the materials before him, has recorded his subjective satisfaction. On perusal of the record, it is obvious that the statements of the witnesses have been recorded by a Police Sub Inspector on 5th November, 1998 and have been verified by the Divisional Police Officer on 12th November, 1998. The said witnesses appear to have been summoned before the Detaining Authority on 17th November, 1998, and one word endorsement 'verified' appears to have been made by the Detaining Authority. It is now a settled proposition of law that such one word verification recorded by the Detaining Authority is not adequate. The statement made in the grounds of detention, therefore, can not be said to have been supported by the materials on record. The subjective satisfaction recorded by the Detaining Authority is, therefore, vitiated and the continued detention of the petitioner is not warranted.

Petition is, therefore, allowed. The impugned order dated 17th November, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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